

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

TYLER DIVISION

DATE: 4/23/09

JUDGE
JOHN LOVE

REPORTER: Kimberly Julian
LAW CLERK: Justin Nemunaitis

FENNER INVESTMENTS, LTD. Plaintiff vs. 3COM CORPORATION, ET AL Defendant	CIVIL ACTION NO: 6:08CV61 MARKMAN HEARING
ATTORNEY FOR PLAINTIFF	ATTORNEY FOR DEFENDANT
Robert Chiaviello Brett Govett Deborah Race Franklin Jones Kirby Drake Miriam Quinn Johnny Ward	William Cornelius Christopher Schultz Robert Yoches Melvin Wilcox Steven Morrissett Jeffrey Lindgren Trey Yarbrough

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 9:01 am

ADJOURN: 12:06 pm

TIME:	MINUTES:
9:01 am	Mr. Chiaviello, Ms. Drake, Mr. Quinn, Mr. Govett, Ms. Race and Mr. Ward announced ready on behalf of the plaintiff. Mr. Cornelius, Mr. Yarbrough, Mr. Yoches, Mr. Schultz, Mr. Wilcox, Mr. Morrissett and Mr. Lindgren announced ready on behalf of the defendants.
9:02 am	The Court greeted the parties and stated we are here for a Markman Hearing. The Court stated we will go back and forth with discussion of the terms. The parties asked for 4 hours, however, he urged parties to attempt to shorten arguments and get done by the noon hour if we can.
9:05 am	Ms. Quinn began walk through of the hearing and arguments. She discussed 224 Patent claim 3 walk-through. Discussion of 906 Patent claim 20 walk-through given.

DAVID J. MALAND, CLERK

FILED: 4/23/09

BY: *Mechele Morris*, Courtroom Deputy

PAGE 2 - Proceedings Continued

TIME:	MINUTES:
9:13 am	Mr. Govett addressed the “logical address” in claim 3 of 224 Patent and gave argument on behalf of the plaintiff. He discussed the logical address versus physical address. He further discussed 224 Patent file history. Mr. Govett discussed the alternative construction and stated it is fully supported.
9:34 am	Mr. Yoches gave introduction and overview of the 224 Patent. He began argument of proposed construction term “logical address” on behalf of the defendants. Prosecution history also discussed.
9:53 am	Mr. Govett began argument on behalf of the plaintiff of proposed construction term “source address”. The claim language is clear.
9:56 am	Mr. Yoches began argument on behalf of the defendants of proposed construction term “source address”
9:59 am	Mr. Govett began argument on behalf of the plaintiff of proposed construction term “destination address”.
10:00 am	No response from defendants.
10:00 am	Ms. Quinn began argument on behalf of the plaintiff of proposed construction term “looking up in a directory”. Specification is clear and tables store information. Claim does not require records and there is no arithmetic coding required. Limitations in dependant claims are presumed to not be limitations of the independent claim from which they depend.
10:08 am	Mr. Yoches responded and gave argument on behalf of the defendants of proposed claim term “looking up in a directory”. He discussed “associated” claim constructions. Mr. Yoches discussed the patent family. He discussed the plain and ordinary meaning of the term “remote interface”.
10:27 am	Mr. Govett responded and discussed the patent family.
10:29 am	Ms. Quinn further discussed the patent history.
10:33 am	Mr. Yoches further discussed the 224 Patent and the continuation. They added further ways of doing reversible arithmetic code compression.
10:37 am	Ms. Quinn stated they have agreement on “physical media address, physical media, and physical media address by identifying the physical device for identifying the data packet for routing the physical media”.
10:37 am	Recess until 10:55.
10:58 am	Court resumed. The Court asked parties about term “logical address”. The Court is unclear on issue related to internal structure.
11:01 am	Mr. Yoches responded.
11:02 am	Mr. Govett responded. He discussed internal structure.
11:09 am	Mr. Yoches further responded about the structure.
11:15 am	The Court asked about source and logical addresses. Parties responded.

PAGE 3 - Proceedings Continued

TIME:	MINUTES:
11:15 am	Ms. Quinn began argument on behalf of the plaintiff of proposed construction term "MAC address". Claim language is clear and each communications port is associated with a MAC address. It cannot be a physical address. Logical vs physical are disclosed and 906 Patent claims at issue are directed to routing using the physical address. Defendants proposal ignores embodiments of changing physical address.
11:19 am	Mr. Yoches responded and gave argument on behalf of the defendants of proposed term "MAC address". He refers to the 906 Patent column 17, line 10.
11:25 am	Ms. Quinn began argument on behalf of the plaintiff of means plus function terms. She discussed the "means for receiving a data packet". Claims 8 and 12 are directed to MACS that perform source address filtering, such as MAC 38.
11:30 am	Ms. Quinn began argument on "means for looking up... source" on behalf of the plaintiff.
11:33 am	Ms. Quinn began argument on "means for filtering". She further discussed "means for looking up".
11:42 am	Mr. Yoches responded and made argument on behalf of the defendants. He argued "means for receiving a data packet". He gave argument on term "means for looking up". Argument made on term "means for filtering". Mr. Yoches further discussed the "means plus function".
12:02 pm	Ms. Quinn responded. She further discussed the MAC address and means for receiving.
12:04 pm	The Court asked if the case has been mediated. Parties stated they have. The Court directed parties to get with Mr. Knowles and get a date for a second round of mediation once the claim construction opinion comes out.
12:06 pm	There being nothing further, Court is adjourned.